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AN ACT

relating to the issuance of permits for certain facilities regulated by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Sections 382.051961, 382.051962, 382.051963, and 382.051964 to read as follows:

Sec. 382.051961. PERMIT FOR CERTAIN OIL AND GAS FACILITIES. (a) This section applies only to new facilities or modifications of existing facilities that belong to Standard Industrial Classification Codes 1311 (Crude Petroleum and Natural Gas), 1321 (Natural Gas Liquids), 4612 (Crude Petroleum Pipelines), 4613 (Refined Petroleum Pipelines), 4922 (Natural Gas Transmission), and 4923 (Natural Gas Transmission and Distribution).

(b) The commission may not adopt a new permit by rule or a new standard permit or amend an existing permit by rule or an existing standard permit relating to a facility to which this section applies unless the commission:

(1) conducts a regulatory analysis as provided by Section 2001.0225, Government Code;

(2) determines, based on the evaluation of credible air quality monitoring data, that the emissions limits or other emissions-related requirements of the permit are necessary to

1 ensure that the intent of this chapter is not contravened,  
2 including the protection of the public's health and physical  
3 property;

4           (3) establishes any required emissions limits or other  
5 emissions-related requirements based on:

6                   (A) the evaluation of credible air quality  
7 monitoring data; and

8                   (B) credible air quality modeling that is not  
9 based on the worst-case scenario of emissions or other worst-case  
10 modeling scenarios unless the actual air quality monitoring data  
11 and evaluation of that data indicate that the worst-case scenario  
12 of emissions or other worst-case modeling scenarios yield modeling  
13 results that reflect the actual air quality monitoring data and  
14 evaluation; and

15           (4) considers whether the requirements of the permit  
16 should be imposed only on facilities that are located in a  
17 particular geographic region of the state.

18           (c) The air quality monitoring data and the evaluation of  
19 that data under Subsection (b):

20                   (1) must be relevant and technically and  
21 scientifically credible, as determined by the commission; and

22                   (2) may be generated by an ambient air quality  
23 monitoring program conducted by or on behalf of the commission in  
24 any part of the state or by another governmental entity of this  
25 state, a local or federal governmental entity, or a private  
26 organization.

27           Sec. 382.051962. AUTHORIZATION FOR PLANNED MAINTENANCE,

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1 START-UP, OR SHUTDOWN ACTIVITIES RELATING TO CERTAIN OIL AND GAS  
2 FACILITIES. (a) In this section, "planned maintenance, start-up,  
3 or shutdown activity" means an activity with emissions or opacity  
4 that:

5 (1) is not expressly authorized by commission permit,  
6 rule, or order and involves the maintenance, start-up, or shutdown  
7 of a facility;

8 (2) is part of normal or routine facility operations;

9 (3) is predictable as to timing; and

10 (4) involves the type of emissions normally authorized  
11 by permit.

12 (b) The commission may adopt one or more permits by rule or  
13 one or more standard permits and may amend one or more existing  
14 permits by rule or standard permits to authorize planned  
15 maintenance, start-up, or shutdown activities for facilities  
16 described by Section 382.051961(a). The adoption or amendment of a  
17 permit under this subsection must comply with Section  
18 382.051961(b).

19 (c) An unauthorized emission or opacity event from a planned  
20 maintenance, start-up, or shutdown activity is subject to an  
21 affirmative defense as established by commission rules as those  
22 rules exist on the effective date of this section if:

23 (1) the emission or opacity event occurs at a facility  
24 described by Section 382.051961(a);

25 (2) an application or registration to authorize the  
26 planned maintenance, start-up, or shutdown activities of the  
27 facility is submitted to the commission on or before the earlier of:

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1                   (A) January 5, 2014; or

2                   (B) the 120th day after the effective date of a  
3 new or amended permit adopted by the commission under Subsection  
4 (b); and

5                   (3) the affirmative defense criteria in the rules are  
6 met.

7                   (d) The affirmative defense described by Subsection (c) is  
8 not available for a facility on or after the date that an  
9 application or registration to authorize the planned maintenance,  
10 start-up, or shutdown activities of the facility is approved,  
11 denied, or voided.

12                   Sec. 382.051963. AMENDMENT OF CERTAIN PERMITS. (a) A  
13 permit by rule or standard permit that has been adopted by the  
14 commission under this subchapter and is in effect on the effective  
15 date of this section may be amended to require:

16                   (1) the permit holder to provide to the commission  
17 information about a facility authorized by the permit, including  
18 the location of the facility; and

19                   (2) any facility handling sour gas to be a minimum  
20 distance from a recreational area, a residence, or another  
21 structure not occupied or used solely by the operator of the  
22 facility or by the owner of the property upon which the facility is  
23 located.

24                   (b) The amendment of a permit under this section is not  
25 subject to Section 382.051961(b).

26                   Sec. 382.051964. AGGREGATION OF FACILITIES.  
27 Notwithstanding any other provision of this chapter, the commission

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1 may not aggregate a facility that belongs to a Standard Industrial  
2 Classification code identified by Section 382.051961(a) with  
3 another facility that belongs to a Standard Industrial  
4 Classification code identified by that section for purposes of  
5 consideration as an oil and gas site, a stationary source, or  
6 another single source in a permit by rule or a standard permit  
7 unless the facilities being aggregated:

8           (1) are under the control of the same person or are  
9 under the control of persons under common control;

10           (2) belong to the same first two-digit major grouping  
11 of Standard Industrial Classification codes;

12           (3) are operationally dependant; and

13           (4) are located not more than one-quarter mile from a  
14 condensate tank, oil tank, produced water storage tank, or  
15 combustion facility that:

16           (A) is under the control of the same person who  
17 controls the facilities being aggregated or is under the control of  
18 persons under common control;

19           (B) belongs to the same first two-digit major  
20 grouping of Standard Industrial Classification codes as the  
21 facilities being aggregated; and

22           (C) is operationally dependant on the facilities  
23 being aggregated.

24       SECTION 2. (a) Sections       382.051961,       382.051962,  
25 382.051963, and 382.051964, Health and Safety Code, as added by  
26 this Act, apply only to a new permit by rule or a new standard permit  
27 or any amendment to an existing permit by rule or amendment to an

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1 existing standard permit adopted by the Texas Commission on  
2 Environmental Quality on or after the effective date of this Act.

3 (b) A permit by rule or standard permit adopted by the Texas  
4 Commission on Environmental Quality and in effect before the  
5 effective date of this Act is not subject to Sections 382.051961,  
6 382.051962, and 382.051964, Health and Safety Code, as added by  
7 this Act.

8 SECTION 3. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2011.

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David Newkumst

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 1134 passed the Senate on April 19, 2011, by the following vote: Yeas 29, Nays 2; May 26, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2011, House granted request of the Senate; May 28, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 26, Nays 5.

Patricia Spaw

Secretary of the Senate

I hereby certify that S.B. No. 1134 passed the House, with amendments, on May 23, 2011, by the following vote: Yeas 129, Nays 17, two present not voting; May 27, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 138, Nays 4, one present not voting.

Robert Haney

Chief Clerk of the House

Approved:

17 JUN '11

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
O'CLOCK

JUN 17 2011

Debra R. Edwards

Secretary of State